

Mr. Riback



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: ICONCO/NATIONAL Joint Venture

File: B-240119

Date: October 16, 1990

James A. Dobkin, Esq., Arnold and Porter, for the protester.
Robert E. Lieblich, Esq., Bowytz, Brody and Lieblich, for BFI
Stephens, Inc., and Ezra C. Levine, Esq., Howrey and Simon,
for Ogden Allied Abatement and Decontamination Service, Inc.,
interested parties.

S. Lane Tucker, Esq., General Services Administration, for
the agency.

Scott H. Riback, Esq., Andrew T. Pogany, Esq., and Michael R.
Golden, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest that firm was improperly excluded from competitive range is denied where record shows that firm's proposal lacked adequate detail to demonstrate that offeror understood requirement and was capable of satisfactory performance. Fact that solicitation contained detailed specifications regarding contract requirements does not excuse firm's failure to present its proposed approach to satisfying solicitation's specific requirements.

DECISION

ICONCO/NATIONAL Joint Venture protests the exclusion of its proposal from the competitive range for technical deficiencies under request for proposals (RFP) No. GS-01P-90-BXC-0025, issued by the General Services Administration (GSA) for asbestos abatement services for the John F. Kennedy Federal Building in Boston, Massachusetts. We deny the protest.

The solicitation called for the submission of lump-sum offers to perform asbestos abatement in the building during a three

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phase project schedule. Phase one represented the contract's base quantity and phases two and three represented option quantities. The various phases of the project relate to specific areas of the building. The RFP specified that award would be made to the firm submitting the proposal deemed most advantageous to the government and specified that the combined technical evaluation criteria were more important than price. For purposes of evaluating technical proposals, the RFP specified three broad technical evaluation criteria listed in descending order of importance, and each broad criterion contained a further listing of three subfactors. The three criteria, in order, were: (1) understanding and approach; (2) offeror's experience and qualifications; and (3) completion time.

The RFP also contained detailed instructions regarding the preparation of proposals. The instructions for the preparation of technical proposals provided that the technical volume of each firm's proposal was to contain the offeror's project management plan, its standard operating program, a description of other technical considerations, and a description of the offeror's experience and qualifications, as well as a comprehensive project schedule. Within the project management plan portion of its proposal, each offeror was to provide sufficient information to demonstrate the firm's understanding of the project, identifying potential problems and solutions. Each offeror was also required to describe proposed measures to be used to protect the health and safety of both workers and building occupants and to propose measures to minimize disruption to building operations throughout the contract period. Within the standard operating program manual portion of its technical proposal, each firm was required to provide comprehensive listings of both personnel safety equipment and asbestos removal equipment as well as a description of engineering and waste removal and disposal methods, work practices and an organization plan which demonstrated the firm's compliance with certain Occupational Safety and Health Administration (OSHA) regulatory provisions.

In the other technical considerations portion of the technical volume, each offeror was required to describe its respiratory protection program, provide proof of compliance with certain OSHA regulatory provisions (concerning OSHA-required medical examinations for employees), indicate the firm's waste hauler and disposal site and describe in detail the firm's plan for the protection of walls and partitions. Each firm was also required to provide in this section a design of its induction unit storage carts. In the experience and qualifications portion of its proposal, each firm was required to provide detailed information concerning key employees, past experience and subcontractors, and also was

required to note any citations received from regulatory agencies within the past 3 years. Finally, the project completion time portion of each firm's proposal was to include a comprehensive project schedule proposing a viable plan for completing the work within the time specified which identified the size of work crews, the number of floors to be completed at one time, the sequencing of the work, the availability of the firm's workforce, including subcontractors, and the handling and disposal of contaminated waste.

In response to the solicitation, GSA received nine initial proposals. After evaluating those proposals and scoring them on the basis of a 100-point scale, GSA determined that six of the initial proposals, including the protester's, were outside of the competitive range. With respect to the protester, GSA's evaluators concluded that the firm did not have a reasonable chance of receiving award since the firm's proposal received a total consensus score of only 40 points, and its offered price was only fourth low. Briefly, the evaluators found that ICONCO'S proposal lacked sufficient detail, was not "building specific" and contained a variety of other infirmities, including the lack of a comprehensive schedule for the entire project. The evaluators concluded that ICONCO had failed to demonstrate that it had either the experience or understanding necessary to perform a project of the magnitude contemplated by the RFP. The protester was therefore eliminated from the competitive range, and this protest followed.

The protester argues that the agency improperly excluded its proposal from the competitive range. In particular, the protester alleges that its technical proposal conformed to the RFP's instructions regarding the preparation of proposals, and that, given the firm's past experience in asbestos abatement work as well as the quality of its technical proposal, it was improper for GSA to have eliminated it from the competitive range. In addition, the protester argues that the specifications of the RFP were so explicit that the agency improperly eliminated the firm for failing to address the project in sufficient detail. The protester argues that the RFP did not call for proposals which presented a firm's approach to the project but, rather, required only that a firm present its experience and familiarity with work of the kind solicited. In addition, the protester alleges that the agency improperly evaluated ICONCO's proposal in various ways. For example, the protester argues that the agency erred in downgrading its proposal for lack of a comprehensive delivery schedule. According to the protester, its proposal contained the necessary delivery schedule.

The agency responds that it reasonably eliminated the protester's proposal from the competitive range. The agency points out that ICONCO's proposal contained a number of serious discrepancies which would have required major revisions to correct and that, consequently, it was not obliged to include the firm in the competitive range or to conduct discussions with it.

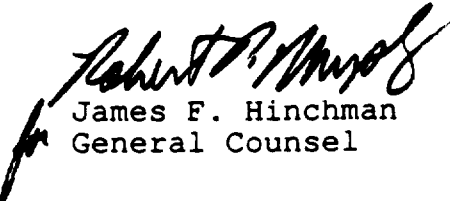
In a negotiated procurement, the competitive range consists of all proposals that have a reasonable chance of being selected for award, including deficient proposals that are reasonably susceptible of being made acceptable through discussions. Engineers Int'l, Inc., B-224177, Dec. 22, 1986, 86-2 CPD ¶ 699. In reviewing a competitive range determination, we examine the agency's evaluation to ensure that it was reasonable and in accord with the evaluation criteria. Rainbow Technology, Inc., B-232589, Jan. 24, 1989, 89-1 CPD ¶ 66.

Here, we have examined the record, including ICONCO's proposal and the evaluators' observations regarding it, and conclude that the firm was reasonably eliminated from the competitive range. We find that the protester's proposal, as the agency determined, discussed in very general terms asbestos abatement, but failed to address the specific requirements of the building which was the subject of the requirement. In this respect, the agency evaluators found, for example, that while the protester discussed the generally accepted industry requirements necessary to ensure that building occupants and visitors are adequately protected during the performance of the project, the firm failed to discuss any particular plans for possible emergency or fire situations which might arise during performance.

Our examination of the protester's proposal shows that much of the narrative in its technical proposal was standard "boilerplate" and consisted of generalities, without the protester's having specifically tailored its proposal to the building involved. We have also confirmed that this deficiency pervades its entire proposal; the proposal, therefore, in our view, was reasonably considered by the agency as needing a major rewrite to become acceptable. For example, in discussing the removal of floor tiles and mastic in its plan of operation, the protester's proposal states simply: "Due to the amount of area involved, mechanical equipment will be used for removal of floor tile and associated mastic. These machines will be operated inside the containment under a negative pressure environment. Equipment data to be submitted later." In addition, we disagree with the protester's assertion that the RFP did not require firms to provide a detailed description of their proposed approach as it related to the particular building in question.

Specifically, we think that the RFP's instructions and evaluation criteria make it clear that firms were to describe in detail their methodology and technical approach to completing the particular project called for under the RFP. We therefore see no basis to overturn the agency's decision to eliminate the firm from the competitive range.

The protest is denied.


James F. Hinchman
General Counsel